Remarks/Arguments

Reconsideration is respectfully requested. Claims 1, 4-12 and 15-24 are pending. Claims 1, 4-12 and 15-24 are rejected. Claims 21 and 23 are cancelled without prejudice.

For the reasons set forth below, Applicants respectfully submit that all pending claims are allowable.

I.   Obviousness Rejections

Claims 1, 4-12 and 15-24 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Publication No. 2005/0102188 (Hutchinson, et al.) in view of U.S Publication No. 2005/0097049 (Writer, et al.) further in view of U.S. Publication No. 2004/0249741 (Understein). See office action page 2.

Applicants respectfully disagree and traverse the Examiner's rejections.

Referring to the Examiner's rejections of claims 21-24, as the Examiner is well aware "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). See also MPEP §2143.03.

Applicants are in agreement with the Examiner's statement that "Hutchinson do [*sic*] not teach automatically adjusting one or more characteristics of the financial account when the verified balance amount of the bank account is less than the outstanding balance amount of the financial account and one or more characteristics of the financial account include an annual percentage rate of the financial account, a cash advance limit of the financial account, and a credit limit of the financial account." See office action page 16.

To make up for the deficiencies of Hutchinson, the Examiner relies on Understein, contending that Understein "teaches automatically adjusting one or more characteristics of the financial account when the verified balance amount of the bank account is less than the outstanding balance amount of the financial account and one or more characteristics of the financial account include an annual percentage rate of the

financial account, a cash advance limit of the financial account, and a credit limit of the financial account (Understein, paragraph [0055]; where user credit card is (financial account) is automatically [adjusted] when user's account has insufficient deposit adjusting characteristics credit limit on the financial account)." <u>See</u> office action page 16.

However, paragraph [0055] of Understein states:

> [0055] In the event that the user's account has insufficient funds when a charge is posted, the system may be linked with and configured to automatically charge the user's credit card, deduct the amount from the user's bank account, or generate an invoice.

As seen in the above paragraph, Understein discloses that when a user's account (i.e., the user's funding account, into which the user transfers money, that is linked to providers of irregular use products and services) has insufficient funds for a posted charge, then the system either proceeds to charge the user's credit card, deduct the amount from the user's bank account, or generate an invoice. In other words, as understood, when the user's funding account has insufficient funds for a transaction with a provider of irregular use products and services, Understein's system effects the payment to the provider by transferring money from the user's credit card, bank account, or by generating an invoice for the user.

Accordingly, even assuming *arguendo*, that the combination of Hutchinson, Writer and Understein were proper, and further that it is proper to equate the user funding account in Understein with the financial account recited in the pending claims, which Applicants contend it is not, Applicants submit that the combination still fails to teach or otherwise suggest the combinations set forth in the pending claims. More specifically, Applicants submit that, as understood, when the user's funding account has insufficient funds to effect a transaction with an irregular use provider, the system in Understein <u>does not</u> automatically adjust one or more characteristics of the user funding account when the verified balance amount of the user funding account is less than the outstanding balance amount owed to the irregular use provider, but rather, as

understood, merely effects payment by transferring money from a different user account (e.g., credit card or bank account).

Thus, Applicants respectfully submit that Understein fails to disclose, teach, or otherwise suggest at least automatically adjusting one or more characteristics of the financial account when the verified balance amount of the bank account is less than the outstanding balance amount of the financial account, as set forth in claims 21 and 23.

For the sole purpose of advancing prosecution of the present application, and not as an acquiescence to the propriety of the Examiner's rejections, Applicants have incorporated the subject matter of claims 21 and 23 into independent claims 1, 12 and 20, and correspondingly cancelled without prejudice claims 21 and 23.

Accordingly, claim **1** is now directed to a method including periodically determining, using the controller, whether the balance amount of the bank account is equal to or greater than an outstanding balance amount of the financial account by comparing the verified balance amount of the bank account to the outstanding balance amount of the financial account, and automatically adjusting one or more characteristics of the financial account when the verified balance amount of the bank account is less than the outstanding balance amount of the financial account. Claim **12** is now directed to a system including a server terminal operatively coupled to the data network, the server terminal configured to periodically determine whether the balance amount of the bank account is equal to or greater than an outstanding balance amount of the financial account by comparing the verified balance amount of the bank account to the outstanding balance amount of the financial account, and automatically adjust one or more characteristics of the financial account when the verified balance amount of the bank account is less than the outstanding balance amount of the financial account. Claim **20** is now directed to a program storage device readable by a machine, tangibly embodying a program of instructions executable by the machine to perform a method including periodically determining whether the balance amount of the bank account is equal to or greater than an outstanding balance amount of the financial account by comparing the verified balance amount of the bank account to the outstanding balance

amount of the financial account, and automatically adjust one or more characteristics of the financial account when the verified balance amount of the bank account is less than the outstanding balance amount of the financial account.

As understood, the combination of Hutchinson, Writer and Understein does not teach each and every limitation of pending independent claims 1, 12 and 20. Accordingly, in view of the foregoing, Applicants respectfully submit that all pending claims are allowable.

No Disclaimers Or Disavowals

Amendments to and/or cancellations of the claims are being made without prejudice and solely to clarify issues before the Examiner and/or to advance prosecution of this application and are not intended as a disavowal of any subject matter and do not constitute an agreement or acquiescence to any objection and/or rejection. Accordingly, by this response Applicants do not concede that previously pending claims are not patentable.

Applicants reserve the right to pursue claims to any subject matter supported by the disclosure of this application in one or more continuation and/or divisional applications at a later time, including the subject matter of any pre-amended and/or cancelled claims, including broader and narrower claims, and including any subject matter found to be disclaimed herein or by any prior prosecution (should such subject matter be found to be disclaimed despite Applicants' statement herein of no such disclaimer). Accordingly, Applicants do not make any disclaimers or disavowals of any subject matter supported by the present disclosure.

Applicants' silence with regard to the Examiner's rejections of and/or objections to certain dependent claims constitutes a recognition by Applicants that the rejections and/or objections are moot based on Applicants' amendment or remarks relative to the independent claim from which the dependent claims depend. Such silence does not constitute an acquiescence to any of the Examiner's objections and/or rejections, and

Applicants reserve the right to argue the patentability of such dependent claims at any appropriate time.

Remarks and/or amendments, or a lack of remarks and/or amendments, are not intended to constitute, and should not be construed as, an acquiescence, on the part of Applicants: as to the purported teachings or prior art status of the cited references; as to the characterization of the cited references advanced by the Examiner; or as to any other assertions, allegations or characterizations made by the Examiner at any time in this case. Applicants reserve the right to challenge the purported teaching and prior art status of the cited references at any appropriate time.

In view of the foregoing, Applicants respectfully submit that all pending claims are allowable, and request the Examiner's early examination of the pending claims in the present application. In the event that the Examiner deems a telephonic or in person discussion would be helpful in advancing the prosecution of the present application, Applicants respectfully request the Examiner to contact Applicants' representative at (510) 652-6418, x82.

Respectfully submitted,

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